

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION OPIATE
LITIGATION

This document relates to:

*The Blackfeet Tribe of the Blackfeet Indian
Reservation v. AmerisourceBergen Drug
Corp., et al.*
Case No. 18-op-45749

MDL No. 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

NOTICE OF SUPPLEMENTAL AUTHORITY

Generic Manufacturers¹ respectfully submit this Notice of Supplemental Authority to bring the Court's attention to the recent decision in *Allen v. Vintage Pharms. LLC*, No. 5:18-cv-00329-TES (M.D. Ga. Feb. 11, 2019), ECF No. 30 (attached as Exhibit A). That decision further supports the Generic Manufacturers' pending Motion to Dismiss in this case. (ECF No. 930).

In *Allen*, the Honorable Judge Tilman E. Self, III dismissed similar claims against generic manufacturers in a wrongful death action due in part to an opioid prescription (in combination with another medicine). Applying *PLIVA, Inc. v. Mensing*, 564 U.S. 604 (2011), Judge Self held that "no matter how artfully pled, Plaintiff fails to state a claim for failure to warn because such a claim is preempted by federal law." Ex. A, at 10. He dismissed the remaining false marketing claims

¹ The Generic Manufacturers are Watson Laboratories, Inc. ("Watson"), Actavis Pharma, Inc. ("Actavis Pharma"), Actavis LLC ("Actavis LLC"), Par Pharmaceutical, Inc., and Par Pharmaceutical Companies, Inc. In addition, Mallinckrodt LLC, SpecGx LLC, and Teva Pharmaceuticals USA, Inc. ("Teva USA") also join this notice of supplemental authority to the extent Plaintiff's claims against them rest on allegations regarding their generic products.

because plaintiff failed “to even plead the essential elements of either a fraud or negligent misrepresentation claim” against the generic manufacturers. *Id.* at 10-11. The Court should reach the same result here.

Dated: February March 1, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2019, a copy of the foregoing **Notice Of Supplemental Authority** was filed electronically in MDL Master Docket No. 17-md-2804 and in No. 1:18-op-45749-DAP. Notice of this filing was sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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